

PERFORMANCE AGREEMENT

This Contract for Services for the Voucher Based Rental Assistance Program ("Agreement") is made and entered into as of this 1st day of February 2010 by and between **The Life Link** and Santa Fe County Housing Authority ("Contractor").

WHEREAS, the purpose of the Agreement is to provide the Contractor with the opportunity to administer portions of the Voucher Based Rental Assistance Program ("Bridge Program") and

WHEREAS, funds were provided to The Life Link through the then- designated Statewide Entity ValueOptions New Mexico ("VONM"), and

WHEREAS, Bridge Program funds will provide affordable housing opportunities for low income individuals with serious mental illness within the Contractor's jurisdiction, and

WHEREAS, the Contractor represents and warrants that it has the necessary administrative capacity for the local implementation, administration and delivery of the Program in accordance with the terms of this Agreement.

NOW THEREFORE, Contractor and The Life Link agree to the following:

Article 1. Scope of Work

The Contractor is required to implement a Bridge Program to provide rental assistance, excluding security deposits, utility deposits and application fees. The program funds are to be used strictly for Bridge Program Voucher Based Rental Assistance. The Contractor will serve a minimum of 6 to 8 households in the service area of: Santa Fe County

The Contractor required to provide financial accounting on a quarterly basis of all rental assistance expenditures.

Article 2. Funds to be Disbursed

1. Maximum Fund Amounts: The funds to be disbursed under this Agreement shall not exceed One Hundred Six Thousand Five Hundred Sixty Dollars and No Cents (\$106,560.00) in program funds, plus Sixteen Thousand Six Hundred Forty Dollars and No Cents (\$16,640.00) in administrative funds, for total funding in the amount of One Hundred Twenty-three Thousand Two Hundred Dollars and No Cents (\$123,200.00).

2. Disbursement Limitations. Except as otherwise provided herein, Program funds and administrative fees will be disbursed following the Board of County Commissioners (BCC) approval and signing of contract.

3. Timely Expenditure of Program Funds. That all Program funds awarded to contractor under this Agreement, including Administrative Compensation shall be obligated and expended by the expiration date of this contract, as detailed in Article 3 of this Agreement.

Article 3. Term of Agreement

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This Agreement shall become effective February 1, 2010. Unless terminated earlier as provided in this Agreement, the term of this Agreement shall expire on the dates specified, or on the date on which Contractor has fulfilled all of its obligations hereunder. In any event, all of the services required hereunder shall be completed by December 31, 2012. This Agreement is eligible for up to two one-year renewals, pursuant to the provisions of Article 4 of this Agreement.

Article 4. Renewal

This Agreement may be renewed, at the discretion of The Life Link, for a maximum of two (2) additional one (1) year periods under the same terms and conditions. The determination to renew this Agreement shall be contingent upon funding availability; Contractor's performance; and such other factors as The Life Link may in its discretion deem relevant. This renewal option may be exercised solely at the discretion of The Life Link. The decision to renew this Agreement will in part be based on an annual evaluation Life Link will conduct of the Contractor's performance under this Agreement, said evaluation to examine such factors as:

- a. Timely expenditure of funds;
- b. Regular annual financial audits with no unresolved findings.

Article 5. Termination

1. Termination at Will. This Agreement may be terminated by The Life Link or by Contractor with a minimum notice of 30 days. By such termination, neither party may nullify any obligation already incurred prior to the date of termination.

3. Delivery of Program Funds. In the event of termination, originals of all documents regarding Program Funds and Project Income on hand, all accounts receivable and all contracts, records, files and other instruments and documents related to all Projects described in Article 1, the Scope of Work, whether or not any Program Funds have been expended with respect to such Projects, shall be delivered to and become the property of The Life Link within thirty (30) days of termination.

Article 6. The Life Link Responsibilities

The Life Link shall provide the following:

1. Compliance Monitoring. The Life Link shall conduct compliance review monitoring of the Contractor in the performance under this Agreement, the Act, Regulations and the Program Documents.

2. Intake and Referrals. The Life Link shall conduct all intakes and referrals to the Bridge Program.

3. Supportive Services. The Life Link shall provide Supportive Services to residents of the Bridge Program.

Article 7. Additional Contractor Responsibilities

1. Statement of Assurances. Contractor has complied with all applicable requirements as stated within the Statement of Assurances contained herein as **Schedule A**, including, but not limited to, all Federal Labor Standards.

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2. Compliance. That the development, implementation, administration, and delivery of the Bridge Program projects provided for under this Agreement ("Project") shall be consistent with the Housing Choice Voucher Program.

3. Property Standards. Contractor shall use its best efforts to ensure, to the extent possible, that all housing meets the lead-based paint requirements of the Department of HUD. Contractor shall use its best efforts to ensure that all rental housing assisted with Program Funds and all housing occupied by tenants receiving tenant-based rental assistance is maintained in compliance with HUD Housing Quality Standards defined in 24 CFR 982.401 and other state or local code requirements.

4. Tenant Assistance. If Contractor is providing Program Funds to a tenant receiving Voucher based rental assistance, Contractor shall enter into a contract with such tenant that meets the requirements of the Housing Choice Voucher Program.

5. Inspections. If Contractor is providing Program Funds for rental housing or rental housing occupied by tenants receiving Voucher based rental assistance, Contractor must conduct the inspections required under HUD Housing Quality Standards defined in 24 CFR 982.401.

Article 8. Default

If Contractor fails to comply with the terms of this Agreement, The Life Link may exercise all its remedies with in the law including but not limited to:

1. Reduction/Withdrawal of Program Funds. Reduce and/or withdraw Program Funds including Administrative Funds. Prior to reducing or withdrawing any funds, The Life Link shall provide the Contractor with written notice explaining the action to be taken and the reasons therefore, and giving Contractor thirty (30) days from the date of the notice in which to correct any deficiencies or violations; and

2. Mandatory Repayment of Funds. Require the Contractor to repay Program Funds expended for the Bridge Program under this Agreement promptly after written demand from MFA subject to availability of funds appropriated to the Contractor for that purpose from insurance proceeds or otherwise.

3. Legal Proceedings. If the Contractor refuses or fails, as determined by The Life Link, to satisfactorily correct any compliance deficiencies or violations, The Life Link may require repayment of Program Funds expended on the Project for which Contractor has failed to correct such deficiencies or violations and The Life Link may initiate legal proceedings against Contractor for recovery of Program Funds and, where appropriate, damages, and/or foreclosure proceedings against the Projects developed, acquired, or acquired and rehabilitated using Program Funds under this Agreement; and

4. Responsibility. Contractor accepts full responsibility for performance of the Scope of Work, as described in Article 1 of this Agreement, and for the proper obligation and expenditure of Program Funds under this Agreement. The Life Link and the Contractor shall each remain solely liable for any act or omission of their respective officers, employees, agents, or contractors, subject to any otherwise available defense or limitation of liability. Nothing in this Agreement is intended to be a waiver of any constitutional, statutory, or common-law sovereign immunity. Any liabilities of The Life Link or the Contractor are subject to the terms of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq.* .

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Article 9. Records and Audit

1. **Required Records.** The Contractor will maintain adequate financial accounting, Program and Project records, including records required.
2. **Recipient Data.** The Contractor will maintain "characteristic data" for each individual and/or family assisted with Bridge Program funds and/or matching funds, if applicable. Characteristic data, at a minimum, shall include household income, race, ethnicity, age of household members, size of household, female head of household (if applicable), special needs household, marital status, and whether homeowner or renter. This data is required to be reported to The Life Link quarterly.
3. **Annual Audit.** The Contractor shall maintain strict accountability of all Program Funds disbursed to them, shall cause an independent audit to have been expended to be completed in a timely manner at Contractor's sole cost and shall make available copies of such audit to The Life Link.
4. **Record Retention.** Contractor shall maintain and permit inspection of documents pursuant to this Article for a period of five (5) years after final disbursement of Program Funds is made under this Agreement.
5. **Reports and Information.** At such times and in such forms as The Life Link may require, Contractor shall furnish to The Life Link such statements, records, data and information as The Life Link may request pertaining to matters covered by this Agreement.

Article 10. Assignment

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without prior written approval of The Life Link.

Article 11. Equal Opportunity and Fair Housing Compliance

The Contractor agrees to abide by all Federal and State laws, rules and regulations, and executive orders of the President of the United States of America and the Governor of the State of New Mexico, pertaining to equal employment opportunity and fair housing. In accordance with all such laws, rules and regulations, and executive orders, the Contractor agrees to assure that no person in the United States shall, on the grounds of race, color, national origin, sex, age, sexual orientation, gender identity or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement.

Article 12. Release

Final payment of the amounts due under this Agreement to the Contractor shall operate as a release of The Life Link, their officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

Article 13. Amendment

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This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

Article 14. Scope of Agreement

This Agreement incorporates all the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreement or understandings, verbal, or otherwise of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

Article 15. Officials Not to Benefit

Contractor represents and warrants that no Program Funds have been paid or will be paid, by or on behalf of the Contractor or any Subcontractor to any person for influencing or attempting to influence an officer or employee of any state, federal or local agency, or a member of Congress, in connection with the awarding of any local, state or federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any local, state or federal contract, grant, loan or cooperative agreement.

If any funds other than the federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency or member of Congress in connection with this Agreement, or any grant, loan, or cooperative agreement related to this Agreement or the Program Funds to be disbursed hereunder, Contractor or any Subcontractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

No local, state or federal employee or official shall be permitted to obtain any benefit that may arise from this Agreement. Pursuant to Sections 13-1-191, 30-24-1, et seq., and 30-41-1 through 30-41-3 NMSA 1978, the receipt or solicitation of bribes, gratuities and kickbacks is strictly prohibited. Should the MFA determine that Contractor has violated any of these provisions, the MFA may terminate this Agreement, in addition to pursuing any other applicable penalties.

Article 16. Insurance

The Contractor shall procure and maintain at its expense until final payment by The Life Link for services covered by this Agreement or until termination of the contract whichever is later, insurance in the kinds and amounts hereinafter provided with insurance companies authorized to do business in the State of New Mexico, covering all operations under this Agreement, whether performed by the Contractor or its agents. Before commencing the services, and on the renewal of all coverage's, the Contractor shall furnish to The Life Link a certificate or certificates in form satisfactory to The Life Link showing that it has complied with this Article. Various types of required insurance may be written in one or more policies. With respect to all coverage's required other than workers' compensation, The Life Link shall be named an additional insured. Kinds and amounts of insurance required are as follows:

1. **Commercial General Liability Insurance:** A commercial general liability insurance policy with combined limits of liability for bodily injury or property damage as follows:

\$1,000,000 Per Occurrence

\$1,000,000	Policy Aggregate
\$1,000,000	Products Liability/Completed Operations
\$1,000,000	Personal and Advertising Injury
\$50,000	Fire-Legal
\$5,000	Medical Payments

Said policy or policies of insurance must include coverage for all operations performed for The Life Link by the Contractor and contractual liability coverage.

Article 17. Schedules

The following Schedules to this Agreement are made a part of this Agreement, whether physically attached hereto or executed separately by the parties and described as Schedules by reference to this Agreement. Schedules may, from time to time, be amended upon written agreement signed by both Contractor and The Life Link. In the event that Contractor requests any Budget Adjustment Requests ("BARs"), any such proposed amendments also shall be subject to the prior approval of The Life Link in writing in accordance with Article 13 of this Agreement. Upon The Life Link's approval of such amendment, said amendment shall become part of this Agreement. Except as otherwise amended, this Agreement shall remain in full force and effect. Any Amended Schedules will replace previous schedules and will not alter the Agreement in any other way.

Schedule A Statement of Assurances

Article 18. Status of Contractor

1. Independent Contractor. The Contractor, its agents and employees are independent contractors performing professional services for The Life Link and are not employees of the MFA or the State of New Mexico. The Contractor and its agents and employees, shall not accrue leave, retirement, insurance, bonding or any other benefits afforded to employees of The Life Link.
2. Contractor Shall Not Bind The Life Link. Contractor shall not purport to bind The Life Link, its officers or employees or VONM to any obligation not expressly authorized herein unless The Life Link has expressly given Contractor the authority to do so in writing.
3. Non-Appropriation Clause. This Agreement is contingent upon sufficient appropriations and authorizations being made for performance of this Agreement by the Board of County Commissioners of the Contractor and/or, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the Contractor to Life Link. Such termination shall be without penalty to the Contractor, and the Contractor shall have no duty to reimburse Life Link for expenditures made in the performance of this Agreement. The Contractor is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the Contractor. The Contractor's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by Life Link in any way or forum, including a lawsuit.

Article 19. Applicable Law

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This Agreement shall be governed by the laws of the State of New Mexico and by applicable Federal law. The Contractor consents to the jurisdiction of the Courts of the State of New Mexico. If any term or provision of this Agreement shall be found to be illegal or unenforceable then, notwithstanding, this Agreement shall remain in full force and effect and such term or provision shall be deemed to have no effect.

Article 20. Notices

All notices required to be given to The Life Link under this Agreement shall be sent to The Life Link's Executive Director or designee, at:

The Life Link
2325 Cerrillos Rd.
Santa Fe, New Mexico 87505
Attn: Carol Luna-Anderson, Executive Director

All notices required to be given to the Contractor under this Agreement shall be sent to:

Ms. Dodi Salazar
Executive Director
Santa Fe County Housing Authority
52 Camino de Jacobo
Santa Fe, NM 87507

A notice shall be deemed duly given upon delivery, if delivered by hand, or three days after posting, if sent by First class mail, with proper postage affixed. Notice may also be tendered by facsimile transmission, with the original to follow by First class mail.

IN WITNESS WHEREOF, The Life Link and Contractor have caused this Agreement to be executed all as of the date written above.

CONTRACTOR

Santa Fe County Housing Authority

Signature: [Signature]

Name: Dodi Salazar

Title: Executive Director

Date: 1/22/10

Approved as to form

Santa Fe County Attorney

By: [Signature]

Date: 1-11-10

The Life Link

Signature: [Signature]

Name: Carolyn Luna-Anderson

Title: Executive Director

Date: 2-1-2010

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SCHEDULE A
STATEMENT OF ASSURANCES

The applicant or grantee hereby assures and certifies that:

LEGAL AUTHORITY

- (A) It possesses legal authority to apply for the grantee and to execute the proposed program.

OFFICIAL RESOLUTION

- (B) Its governing body has duly adopted or passed as an official act, a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

ACCESS TO INFORMATION

- (C) It will provide citizens with reasonable access to records regarding its assisted activities and management.

PROGRAM COMPLIANCE

- (D) It will comply with all applicable program requirements described in the program regulations and any amendments hereafter and final regulations for the program.

ADMINISTRATIVE AND FINANCIAL REQUIREMENTS

- (E) It will comply with the requirements and policies of 24 CFR Part 85 entitled: "Uniform Administrative Requirements for Grantees and Cooperative Agreements to State and Local Governments", as specified in OMB Circular A-110 entitled: "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations"; OMB Circular A-87 entitled: "Cost Principles for State, Local and Indian Tribal Governments"; OMB Circular A-122 entitled: "Cost Principles for Nonprofit Organizations"; A-21 "Cost Principles for Educational Institutions", 24 CFR Part 42, OMB Circular A-133 entitled "Audits of State, Local Governments, and Non-Profit Organizations," and Treasury Circular 1075.

ARCHITECTURAL BARRIERS

- (F) If or as applicable, it will comply with the Architectural Barriers Act of 1968, P.L. 90-480, as amended (42 U.S.C. 4151 *et seq.*)

CIVIL RIGHTS

- (G) It will comply with:

- (1) Title VI of the Civil Rights Act of 1964, P.L. 88-352 (42 U.S.C. 2000d *et seq.*) and the regulations issued pursuant thereto (24 CFR Part 1).

FAIR HOUSING

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- (2) Title VIII of the Civil Rights Act of 1968, as amended by Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.) and implementing regulations at 24 CFR part 100.

Executive Order 11063, as amended by Executive Order 12892 and the regulations contained in 24 CFR Part 107.

EQUAL OPPORTUNITY

- (3) Section 109 of the Housing and Community Development Act of 1974, P.L. 93-383 (42 U.S.C. 5309) and the regulations issued pursuant thereto (24 CFR Part 570.602).

AGE

- (4) Age Discrimination Act of 1975, P.L. 94-135 (42 U.S. C. 6101 et seq.) and the implementing regulations at 24 CFR part 146.

HANDICAPPED PERSONS

- (5) Sec. 504 of the Rehabilitation Act of 1973, P.L. 95-602 (29 U.S.C. 794) and HUD implementing regulations at 24 CFR Part 100 subpart D.
- (6) Executive Order 11246, Equal Opportunity in Federal Employment, as amended by Executive Order 12086, and subsequently 12608, and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60).
- (7) Executive Order 11625, as amended, and Executive Order 12432 which prescribe additional arrangements for developing and coordinating a national program for Minority Business Enterprise; and 24 CFR 85.36(e) which describes actions to be taken to assure that minority business enterprises are used when possible in the procurement of property and services.
- (8) Executive Order 12138, as amended, which creates a National Women's Business Enterprise Policy; and 24 CFR 85.36(e) which describes actions to be taken to assure that minority business enterprises are used when possible in the procurement of property and services.

EMPLOYMENT

(H) It will comply with Section 3 of the Housing and Urban Development Act of 1968, P.L. 90-448, as amended (12 U.S.C. 1701 *(u)*) *requiring* that to the greatest extent feasible opportunities for training and employment be given to low and moderate income residents and contracts for work in connection with the project be awarded to eligible business concerns.

LABOR STANDARDS

(K) it will comply with the following regulations issued under the following Acts and other federal laws and regulations pertaining to labor standards and HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development Programs), as applicable:

- (1) The Davis-Bacon Act (40 U.S.C. 3142).
- (2) Contract Work Hours & Safety Standards Act, P.L. 87-581 (40 U.S.C. 3701 et seq.).

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(3) Copeland "Anti-kickback" Act (40 U.S.C. 3145).

(4) 29 CFR Parts 1, 3, 5, 6, and 7.

CONFLICT OF INTEREST

- (M) It will comply with the conflict of interest provisions in 24 CFR 92.356, 24 CFR 85.36 and OMB Circular A-110, as applicable; and will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.

LEAD BASED PAINT

- (N) If or as applicable, it will comply with Title IV of the Lead- Based Paint Poisoning Prevention Act, P.L. 91-695, as amended, (42 U.S.C. 4821 *et seq.*) and the regulations issued pursuant thereto (24 CFR Part 35).

ENERGY CONSERVATION

- (O) If or as applicable, it will comply with the minimum housing quality standards in the current edition of the International Energy Conservation Code, published by the International Code Council.

LOBBYING

- (P) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal grant, the making of any Federal grant the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement, in accordance with 24 CFR part 87.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants and contracts under grants, loans and cooperative agreement) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$1 0,000 and not more than \$1,00,000 for each such failure.

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CERTIFICATIONS

(AA) The application does not request any more Linkages funds in combination with other federal assistance than is necessary to provide affordable housing.

(BB) It will provide drug-free workplaces in accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701) and the implementing regulations at 24 CFR part 21.

(CC) The applicant and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or involuntarily excluded from covered transactions (see 24 CFR part 24) by any Federal department or agency.

SIGNATURE

DATE

NAME/TITLE

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